

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

KEVIN WAYNE McDANIELS,)	
)	
Petitioner,)	
)	
vs.)	Case No. 1:14-cv-01023-TLW
)	
H.L. HUFFORD,)	
WARDEN AT FCI OTISVILLE)	
)	
Respondent.)	
)	
_____)	

ORDER

Petitioner Kevin Wayne McDaniels (“Petitioner”), an inmate at Federal Correctional Institution Otisville, New York, filed this pro se habeas petition pursuant to 28 U.S.C. § 2241 in the United States District Court for the Southern District of New York. Because Petitioner challenges 2008 convictions in South Carolina state court, the case has been construed as a petition under 28 U.S.C. § 2254 and transferred to this Court. This matter is before the Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Shiva V. Hodges, to whom this case was assigned pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(c), (D.S.C.). In the Report, the Magistrate Judge recommends that this Court dismiss the petition without prejudice because Petitioner has not exhausted his state remedies. (Doc. #14). Objections to the Report were due on April 17, 2014. Petitioner has filed no objections.

The Court is charged with conducting a de novo review of any portion of the Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained therein. 28 U.S.C. § 636. However, in the absence of objections

to the Report, the Court is not required to give any explanation for adopting the Magistrate Judge's recommendation. See Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983). In such a case, "a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

In light of this standard, the Court has carefully reviewed the Report and concludes that it accurately summarizes the case and the applicable law. The Court has also reviewed the pending Motion to Amend, (Doc. #16), and finds that amendment would be futile. Accordingly, for the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Report and Recommendation is **ACCEPTED**, (Doc. #14), and the petition is **DISMISSED** without prejudice. Petitioner's Motion to Amend is hereby **DENIED**. (Doc. #16).

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED** because Petitioner has failed to make "a substantial showing of the denial of a constitutional right." See 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

s/ Terry L. Wooten

Terry L. Wooten
Chief United States District Judge

August 28, 2014
Columbia, South Carolina